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Attorneys for Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NIKOLA LUKAJ, JOSEPH POTENTE, and
DIANA O'NEILL,

Plaintiffs,

-against-

PHILIP AMICONE, individually, EDMUND
HARTNETT, individually, JOHN A. LISZEWSKI,
individually, JOHN FLEMING, individually, DAVID
SIMPSON, individually, LAWRENCE A. PORCARI,
Jr., CITY OF YONKERS, New York, PAUL WOOD,
individually, POLICE OFFICERS JOHN DOES #1 to
#20, individually, and SANITATION WORKERS #1 to
#20, individually,

Defendants.

ECF Case

07 Civ. 8184 (CLB)

**DECLARATION OF
ANDREW B. ZINMAN IN
SUPPORT OF MOTION TO
DISMISS THE COMPLAINT
AS AND AGAINST
DEFENDANT LAWRENCE A.
PORCARI, JR**

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

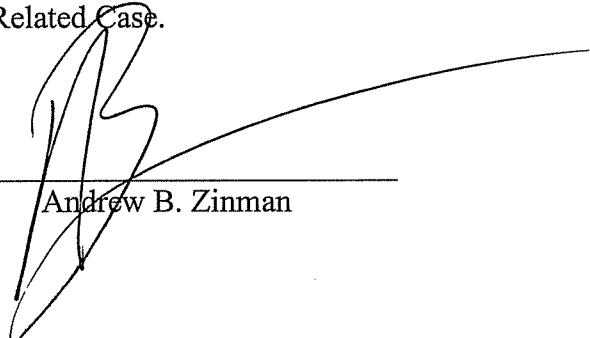
ANDREW B. ZINMAN, being duly sworn, states the following under penalty of
perjury:

1. I am an associate with the law firm Thacher Proffitt & Wood LLP, attorneys for Defendants in the above-entitled action, and duly admitted to practice law in this Court.
2. I submit this declaration based upon information and belief, the source of which is a review of the documents that form the basis of this action.

3. On September 26, 2007, Defendant Lawrence A. Porcari, Jr. ("Porcari") filed a motion to dismiss the complaint as and against him only in a related case (the "Related Case") before this Court and your Honor, bearing Docket Number 07 Civ. 7692 (CLB).

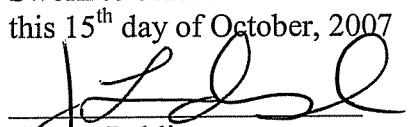
4. The facts surrounding the instant motion to dismiss and the Related Case are identical.

5. In order to not burden this court with another recitation of facts and an identical memorandum of law in support of Defendant Porcari's motion to dismiss the Complaint in the instant matter, the Court is respectfully referred to the Declaration of Andrew B. Zinman dated September 26, 2007 (a copy of which is annexed hereto as Exhibit A) and the Memorandum of Law dated September 26, 2007 (a copy of which is annexed hereto as Exhibit B), in support of Defendant Porcari's motion to dismiss the complaint in the Related Case.



Andrew B. Zinman

Sworn to before me
this 15th day of October, 2007



Notary Public

JOAN MARIE LEWANDOWSKI
NOTARY PUBLIC, State of New York
No. 01LE6112570
Qualified in Westchester County
Commission Expires July 6, 2008